

IN THE SUPREME COURT OF THE STATE OF DELAWARE

AARON JOHNSON,	§
	§ No. 34, 2009
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Kent County
STATE OF DELAWARE,	§ Cr. ID No. 0612006871
	§
Plaintiff Below-	§
Appellee.	§

Submitted: February 13, 2009

Decided: February 20, 2009

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices

ORDER

This 20th day of February 2009, it appears to the Court that:

(1) On January 22, 2009, the Court received the appellant's notice of appeal from the Superior Court's order, docketed on December 11, 2008, denying his motion for credit for time previously served. Pursuant to Supreme Court Rule 6, a timely notice of appeal from the December 11, 2008 order should have been filed on or before January 12, 2009.

(2) On January 22, 2009, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why the appeal should not be dismissed as untimely filed. The appellant filed his response to the notice to show cause on February 3, 2009. The appellant

states that he put the notice of appeal in the mail on January 7, 2009 and does not know why it was not received in the Court until January 22, 2009. Pursuant to Supreme Court Rule 6, a notice of appeal from a denial of a postconviction motion must be filed within 30 days after entry upon the docket of the judgment or order being appealed.

(3) Time is a jurisdictional requirement.¹ A notice of appeal must be filed within the applicable time period in order to be effective.² An appellant's pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of Rule 6.³ Unless the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered.⁴

(4) There is nothing in the record before us reflecting that the appellant's failure to file a timely notice of appeal in this case is attributable to court-related personnel. Consequently, this case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal. Thus, the Court concludes that the within appeal must be dismissed.

¹ *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

² Supr. Ct. R. 10(a).

³ *Carr v. State*, 554 A.2d at 779.

⁴ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice